

IN THE COURT OF APPEALS, MARYLAND

Filed

JUN 05 2017

**Bessie M. Decker, Clerk
Court of Appeals
of Maryland**

JANE AND JOHN DOE, *et al.*

Petitioners,

v.

**ALTERNATIVE MEDICINE
MARYLAND, LLC, *et al.***

Respondents.

IN THE
COURT OF APPEALS
OF MARYLAND

Petition Docket No. 148

September Term, 2017

LINE

ForwardGro, LLC (“ForwardGro”), by undersigned counsel, hereby files this Line adopting and incorporating by reference Petitioner’s Petition for Bypass Writ of Certiorari and Opposition to Motion to Maintain the Status Quo, and joins in full in the relief requested therein. As further support, ForwardGro states as follows:

1. ForwardGro has been issued a grower’s license by the Maryland Medical Cannabis Commission (“MMCC”).

2. ForwardGro was a proposed Intervenor in the Circuit Court action below, filing a timely Motion to Intervene on December 30, 2016. The Circuit Court denied ForwardGro’s Motion to Intervene in open court on February 21, 2017, stating in pertinent part:

The Court therefore does not find that the intervenors have sufficient interest that are connected to the actions involved in each case. And that’s whether the person is so situated that the disposition of the

action as a practical matter may impair or impede that person's ability to protect the interest . . . The Court understand[s] that the proposed intervenors have a general interest in the outcome of the case . . . Those wishes do not rise to the level of a right to intervene.

3. On May 25, 2017, ForwardGro's prior litigation counsel received notice by email from the Court's clerk inviting ForwardGro "to briefly argue at the Preliminary Injunction Hearing scheduled for June 2, 2017 at 10:00am in Courtroom 528E, only on the issue of if the Preliminary Injunction is granted whether or not the license issued to ForwardGro, LLC should be suspended."

4. Maryland Rule 15-505(a) states: "A court may not issue a preliminary injunction without notice to all parties and an opportunity for a full adversary hearing on the propriety of the issuance." As the Maryland Rule only contemplates "parties" to an action being able to participate in a "hearing on the propriety of the issuance" of a preliminary injunction, ForwardGro believed that this Court's May 25 Email served as a reconsideration of the Court's prior February 21, 2017 denial of ForwardGro's Motion to Intervene.

5. On May 30, 2017, counsel for ForwardGro therefore filed with the Circuit Court a Notice of Appearance, stating, *inter alia*: "ForwardGro will govern itself as a party going forward in this matter, unless the Court orders otherwise." See Exhibit 1, attached hereto.

6. On May 31, 2017, the Circuit Court issued an Order denying “ForwardGro, LLC’s request to ‘govern itself as [a] party’ going forward in this matter” *See* Exhibit 2, attached hereto.

7. Also on May 30, 2017, ForwardGro filed a Memorandum in Opposition to any Preliminary Injunction that would apply to ForwardGro, which currently has a vested right in its grower’s license. *See* Exhibit 3, attached hereto.

8. As a licensee seeking intervention in the Circuit Court, ForwardGro has similar and additional due process, substantive, statutory and procedural rights to be heard as expressed in the Petitioners’ Petition for Bypass Writ of Certiorari and Opposition to Motion to Maintain the Status Quo, which are adopted and incorporated herein and will not be repeated.

9. ForwardGro joins Petitioner’s request for permission to brief the issue of intervention and any other relevant issues as this Court may determine, and for an Order permitting intervention to name ForwardGro as an Intervenor in the Circuit Court.

[The remainder of this page is purposefully blank; the signature page follows.]

Respectfully submitted,

By: Ira Kasdan

Ira T. Kasdan
Joseph D. Wilson
Bezalel Stern (*pro hac vice* pending)
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Counsel for ForwardGro, LLC

Dated: June 5, 2017

CERTIFICATE OF SERVICE

I HEREBY certify that on this 5th day of June, 2017, a copy of the foregoing was served, by first class mail, postage prepaid, and via email, on:

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Ira T. Kasdan

Exhibit 1

2017 MAY 30 PM 12:28

IN THE CIRCUIT COURT
CIVIL DIVISION
FOR BALTIMORE CITY, MARYLAND

ALTERNATIVE MEDICINE
MARYLAND LLC,

Plaintiff,

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS, COMM'N, *et*
al.,

Defendants.

Case No. 24-C-16005801
Hon. Barry G. Williams

NOTICE OF APPEARANCE OF NEW COUNSEL

Pursuant to Maryland Rule 2-131(c), undersigned counsel hereby provide this Honorable Court notice that ForwardGro, LLC ("ForwardGro") has retained them to replace its former litigation counsel as counsel of record in this matter.

On May 25, 2017, ForwardGro's prior litigation counsel received notice by email from the Court's clerk inviting ForwardGro "to briefly argue at the Preliminary Injunction Hearing scheduled for June 2, 2017 at 10:00am in Courtroom 528E, only on the issue of if the Preliminary Injunction is granted whether or not the license issued to ForwardGro, LLC should be suspended." Exhibit A (attached hereto) (hereafter the "May 25 Email"). Unless instructed otherwise by the Court, undersigned counsel will appear at the June 2, 2017 Preliminary Injunction Hearing scheduled by the Court on behalf of ForwardGro for the purpose set forth in the aforementioned email.

Maryland Rule 15-505(a) states: “A court may not issue a preliminary injunction without notice to all parties and an opportunity for a full adversary hearing on the propriety of the issuance.” As the Maryland Rules only contemplate “parties” to an action being able to participate in a “hearing on the propriety of the issuance” of a preliminary injunction, ForwardGro believes that this Court’s May 25 Email serves as a reconsideration of the Court’s prior February 21, 2017 denial of ForwardGro’s Motion to Intervene.¹ This is all the more so because, with the grant of a license by the Commission, ForwardGro has a concrete, legally protected interest. *See, e.g., Texas v. U.S.*, 853 F.3d 653, 658 (5th Cir. 2015) citing Moore’s § 24.03[2][a] (“the easiest cases for intervention” are where the proposed intervenor “advances a clear property interest”). Accordingly, ForwardGro will govern itself as a party going forward in this matter, unless the Court orders otherwise.²

[The remainder of this page is purposefully blank; the signature page follows.]

¹ We note that ForwardGro has noticed an appeal from the prior denial of its Motion to Intervene. Nothing herein is intended to waive or prejudice ForwardGro’s pending appeal or any of its arguments that intervention should have been granted, and that the denial thereof has denied ForwardGro of its due process rights to its severe detriment.

² We further note that if the Court were to suspend ForwardGro’s license by issuing a preliminary injunction and not treat ForwardGro as a “party,” ForwardGro’s rights will be further prejudiced in that a “party” may appeal an interlocutory order such as the entry of a preliminary injunction. *See generally* Md. Cts. & Jud. Pro. Code § 12-303.

Respectfully submitted,

By: Ira Kasdan

Ira T. Kasdan

Joseph D. Wilson

Bezalel Stern (*pro hac vice* to be filed)

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Counsel for ForwardGro, LLC

Dated: May 30, 2017

Exhibit A

From: Alyson Parker-Kierzewski <Alyson.Kierzewski@mdcourts.gov>

Date: May 25, 2017 at 6:07:36 PM EDT

To: John Pica <JPica@johnpica.com>, Brian Brown <bbrown@brownbarron.com>, Byron Warnken <byron@warnkenlaw.com>, Heather Nelson -DHMH- <heather.nelson1@maryland.gov>, Michael Berman <MBerman@rwlls.com>, "Alan M. Rifkin" <arifkin@rwlls.com>, "Robert.mccray@maryland.gov" <Robert.mccray@maryland.gov>

Subject: Order from May 25, 2017, TRO hearing

Counsel,

Please be advised that, I have faxed out the TRO Order to all parties. The original has been filed with the Clerk's office and you should receive a time-stamped copy from them.

Mr. Berman and Mr. Rifkin, I have included you in this message because the Court, at the TRO hearing, invited counsel for only ForwardGro, LLC, to briefly argue at the Preliminary Injunction Hearing scheduled for June 2, 2017 at 10:00am in Courtroom 528E, only on the issue of if the Preliminary Injunction is granted **whether** or not the **license** issued to ForwardGro, LLC should be suspended. To that end, I have sent you a **copy** of the TRO order as well.

Best,

Alyson Parker Kierzewski
Law Clerk to the Honorable Barry G. Williams
Baltimore City Circuit Court
111 N. Calvert Street, 534E
(410) 545-3516 (office)
alyson.kierzewski@mdcourts.gov

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

CONFIDENTIALITY NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe you have received this communication in error, please do not print, copy, retransmit, disseminate or otherwise use the information. Also, please indicate to the sender that you have received this message in error and delete the copy you received. Thank you.

CERTIFICATE OF SERVICE

I HEREBY certify that on this 30th day of May, 2017, a copy of the foregoing was served, by first class mail, postage prepaid, and via email, on:

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Attorneys for Plaintiff Alternative Medicine Maryland, LLC

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Baltimore, Maryland 21201

Attorney for Defendants



Ira T. Kasdan

Exhibit 2

JUDGE BARRY G. WILLIAMS
CIRCUIT COURT FOR BALTIMORE CITY
111 N. CALVERT STREET
(410) 545-3516
FAX (410) 545-7324

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Mr. Ira Kasden	Alyson Parker Kierzewski
Mr. Allan Weiner	
Mr. Joseph D. Wilson	
Mr. Bezalel Stern (pro hac vice pending)	
COMPANY:	DATE:
	6.1.17
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
202-342-8451	5
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:
Order ForwardGro, LLC	

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Best,

Alyson Parker Kierzewski
Law Clerk for Judge Williams

ALTERNATIVE MEDICINE MARYLAND,
LLC,
Plaintiff

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS COMMISSION,
et al.,

Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No.: 24-C-16-005801
*

* * * * *

ORDER

On May 30, 2017, ForwardGro, LLC filed a Notice of Appearance of New Counsel, which stated that “ForwardGro believes that this Court’s May 25 Email serves as a reconsideration of the Court’s prior February 21, 2017 denial of ForwardGro’s Motion to Intervene” and that “ForwardGro will govern itself as a party going forward in this matter, unless the Court orders otherwise.” The Court notes that this belief is not correct. The Court’s May 25, 2017 email did not serve as reconsideration of this Court’s February 21, 2017 denial of ForwardGro’s Motion to Intervene nor is ForwardGro LLC is permitted to “govern itself as a party,” in this matter absent express approval by this Court. As noted in the email, counsel for ForwardGro, LLC is invited to argue solely on the issue of whether or not the license issued to ForwardGro, LLC should be suspended, if and only if, the Court grants a Preliminary Injunction at the June 2, 2017 hearing. Therefore, it is this 31st day of May, 2017, by the Circuit Court for Baltimore City:

Notice to Clerk: Please mail copies to all parties.

EXHIBIT 2 TO PETITIONERS' OPPOSITION

ORDERED, that ForwardGro, LLC's request to "govern itself as party" going forward in this matter is **DENIED**; and it is further

ORDERED that ForwardGro, LLC will receive twenty-five (25) minutes of time to address the Court solely on the issue of whether or not the license issued to ForwardGro, LLC should be suspended, if a preliminary injunction is granted.

Judge Barry G. Williams
Circuit Court for Baltimore City
Signature appears on the original document

Judge Barry G. Williams
Circuit Court for Baltimore City

Marilyn Bentley
TRUE COPY
TEST
Bentley
MARILYN BENTLEY, CLERK



Notice to Clerk: Please mail copies to all parties.

EXHIBIT 2 TO PETITIONERS' OPPOSITION

Exhibit 3

IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND

ALTERNATIVE MEDICINE
MARYLAND LLC,

Plaintiff,

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS, COMM'N, *et*
al.,

Defendants.

Case No. 24-C-16005801
Hon. Barry G. Williams

FILED
CITY OF BALTIMORE
CLERK OF COURT
MAY 15 2024

MEMORANDUM IN OPPOSITION TO PRELIMINARY INJUNCTION

ForwardGro, LLC ("ForwardGro"), through undersigned counsel, hereby submits this Memorandum in Opposition (ForwardGro's "Opposition") to any Preliminary Injunction which would suspend the license to grow medical cannabis that has already been issued to ForwardGro (the "License"), and in support thereof states as follows:

ForwardGro recognizes that this Court may be troubled by certain behavior of the Maryland Medical Cannabis Commission ("MMCC") in implementing the will of the Maryland Legislature, as codified in Md. Health-General Code § 13-3301 (2017), *et seq.* However, in expressing its displeasure, ForwardGro implores this Court not to deprive medical cannabis from the thousands of qualified Maryland patients who have already applied for the program and desperately need the relief the use of ForwardGro's License will bring, and whose best interest was the stated impetus of Maryland's medical cannabis statute.

In expanding any preliminary injunction to ForwardGro, thereby stripping ForwardGro of its vested property right in the License, the Court must, of course, examine “the four factors that must be found” before an injunction may issue. *Ehrlich v. Perez*, 394 Md. 691, 707 (2006) (quotation omitted). As discussed below, those four factors weigh heavily against a grant of such an expansive and disruptive injunction. Even before evaluating those four factors, however, the Court must recognize that the grant of an expansive preliminary injunction stripping ForwardGro of the use of its License—providing Plaintiff Alternative Medicine Maryland, LLC (“Plaintiff”) with far more “relief” than it has requested, upending the status quo, and taking without due process and without compensation ForwardGro’s vested property right—is an inappropriate exercise of judicial discretion.

ForwardGro has been vigilant in its compliance with the Maryland Code and the regulations established by the MMCC for the issuance of the License. An expansive preliminary injunction affecting ForwardGro would deprive it of the use of its constitutionally-protected interest in the License. More importantly, suspension of the License would deprive medical cannabis to thousands of Maryland patients, some of whom have been waiting, literally painfully, for years, for implementation of the law.

The intended beneficiaries of Maryland’s medical cannabis program are not the growers of medical cannabis—as Plaintiff’s pleadings seem to suggest—but “qualifying patients.” *See* Md. Health-General Code § 13-3302(c) (2017) (“The purpose of the

Commission is to develop policies, procedures, guidelines, and regulations to implement programs *to make medical cannabis available to qualifying patients in a safe and effective manner.*” (Emphasis added)). The Maryland Legislature enacted this law—and the Court should interpret it—with their best interests in mind.

Tellingly, Plaintiff’s Memorandum of Law requesting an Order to Show Cause Why a Preliminary Injunction Should Not Be Granted (DE 72/0, the “Motion”), while quoting the same language stating the purpose of the law, *id.* at 4, completely ignores the harm these Maryland patients would suffer. *See id., passim.* In fact, a preliminary injunction suspending ForwardGro’s License would serve to deprive qualified Maryland patients of the medical cannabis they need, and which, as evinced by the clear and unambiguous language of the Maryland Code, the Maryland Legislature intended they receive. To the contrary, this Court should allow ForwardGro to use its constitutionally-protected License to provide the full measure of relief to these Maryland patients as the Maryland Legislature envisioned they would receive.

ARGUMENT

I. ForwardGro Was Not Provided With Due Process of Law, and Cannot Now Be Deprived of its Legally Protected Interests Pursuant to the United States Constitution and the Maryland Constitution

1. ForwardGro Has Been Denied Procedural Due Process

While counsel for ForwardGro intends to participate in the June 2, 2017 Preliminary Injunction Hearing in the limited fashion that the Court has dictated, this is by

no means a concession that ForwardGro was provided, or is being afforded, due process. It indisputably has not and is not.

Months earlier in this case, ForwardGro filed a Motion to Intervene with this Court. (DE 24/0) (the “Motion to Intervene”). In the Motion to Intervene, ForwardGro argued, *inter alia*, that it had “a direct property or other interest in these actions. Those interests will be impaired or impeded by these actions if they are not permitted to intervene.” *Id.* at p. 2 ¶ 7.

In denying the Motion to Intervene at a February 21, 2017 Hearing, (DE 44/0), the Court stated, *inter alia*:

The Court understand[s] that the proposed intervenors have a general interest in the outcome of the case. The growers [*i.e.*, ForwardGro] want nothing to stand in the way of the process which would allow them to get a license, the patients certainly want access to medical cannabis as soon as possible. Those wishes do not rise to the level of a right to intervene.

Hearing Transcript, p. 7 (attached hereto as Exhibit A). By failing to allow ForwardGro to intervene then, the Court thereby deprived ForwardGro of its due process rights in this case. The Court’s ruling seemed to discount the idea that ForwardGro (or another grower) could receive a license, and thereby obtain a legally protected property interest.

On May 17, 2017, ForwardGro received the License. That indisputably gave ForwardGro a vested property right.¹ On May 25, 2017, this Court issued a temporary

¹ While there are different definitions of a “vested right,” at least one accepted definition is that “a vested right is an immediate right of present enjoyment or a present

restraining order, preventing the MMCC from issuing final licenses, which effectively precludes the issuance of a final license to any other entity.

ForwardGro's License is a legally protected property interest, of course, that provides it with a particularized (as opposed to general) interest in the outcome of this case. Yet, until this Court invited ForwardGro to participate in the June 2, 2017 Hearing, *see* Exhibit B, attached hereto, which effectively reversed the Court's original denial of ForwardGro's Motion to Intervene,² ForwardGro has been denied its rights to file briefs or motions in support of its due process rights. When Plaintiff filed the Motion, ForwardGro was provided no opportunity to respond, in violation of its due process rights. ForwardGro was not invited to attend or participate in the Hearing on the Temporary Restraining Order, which took place before the Court on May 25, 2017 (the "TRO Hearing").

fixed right of future enjoyment." *Langston v. Riffe*, 359 Md. 396, 401 (2000) (citations omitted). ForwardGro's License certainly meets that definition.

² Maryland Rule 15-505(a) states: "A court may not issue a preliminary injunction without notice to all parties and an opportunity for a full adversary hearing on the propriety of the issuance." As the Maryland Rules only contemplate "parties" to an action being able to participate in a "hearing on the propriety of the issuance" of a preliminary injunction, ForwardGro believes that this Court's May 25 email serves as a reconsideration of the Court's prior February 21, 2017, denial of ForwardGro's Motion to Intervene. This is all the more so because, with the grant of the License, ForwardGro has a concrete, legally protected property interest. *See, e.g., Texas v. U.S.*, 853 F.3d 653, 658 (5th Cir. 2015) citing Moore's § 24.03[2][a] ("the easiest cases for intervention" are where the proposed intervenor "advances a clear property interest").

That alone prejudiced ForwardGro. The Court's clerk's email invitation, Exhibit B, on extremely short notice, to allow ForwardGro to participate in a preliminary injunction hearing "to briefly argue . . . only on the issue of if the Preliminary Injunction is granted whether or not the license issued to ForwardGro, LLC should be suspended" does not cure that prejudice; nor cure the prejudice to ForwardGro by virtue of the Court's original denial of the Motion to Intervene; nor ensure ForwardGro's full due process rights to a meaningful opportunity to be heard, to which it is entitled, at the preliminary injunction hearing.

Notwithstanding the Court's email invitation, ForwardGro has been denied, and continues to be denied, its "deep-rooted historic tradition that everyone should have his own day in court." *Martin v. Wilks*, 490 U.S. 755, 762 (1989). The fact that the Court may believe that the MMCC has been representing ForwardGro's rights to date and/or may do so at the June 2 hearing is insufficient, because "the government's representation of the public interest may not be 'identical to the individual parochial interest' of a particular group just because 'both entities occupy the same posture in the litigation.'" *Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 899 (9th Cir. 2011) (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 996 (10th Cir. 2009)).

Because ForwardGro was not invited to attend the TRO Hearing, ForwardGro has no actual or constructive knowledge of the arguments advanced by the Plaintiff and Defendants for and against the Motion at the TRO Hearing. More importantly, ForwardGro has no actual or constructive knowledge of the position this Court took and

the comments this Court made at the TRO Hearing. Even if a transcript becomes available in the next few days,³ ForwardGro still will not have had sufficient time to prepare and have a meaningful opportunity to be heard on June 2.

Indeed, evidently, at least some of the Court's oral comments were related to ForwardGro, as per the Court's clerk's May 25, 2017 email, stating that, at the TRO Hearing, the Court "invited counsel for only ForwardGro, LLC, to briefly argue at the Preliminary Injunction Hearing scheduled for June 2, 2017 at 10:00am in Courtroom 528E, only on the issue of if the Preliminary Injunction is granted whether or not the license issued to ForwardGro, LLC should be suspended. To that end, I have sent [counsel for ForwardGro] a copy of the TRO order as well." Exhibit B. By way of further explanation, the Court's clerk attached a one-page Order granting, without explanation, Plaintiff's Motion for a Temporary Restraining Order. (DE 72/3.). *See* Exhibit B.

In fact, the "TRO order" referenced in the above email states that a temporary restraining order is being granted following consideration of "arguments presented at the hearing, and for the reasons stated on the record." (DE 72/3). Because ForwardGro was not invited to attend the TRO Hearing, ForwardGro (and its counsel) have literally no idea what arguments were advanced or why the Court granted the temporary restraining order.

³ No transcript has been available or prepared to ForwardGro's knowledge although, ForwardGro is led to believe that an expedited request for it has been made by others.

ForwardGro is attending the June 2, 2017 Preliminary Injunction Hearing, pursuant to the Court's clerk's email, without knowing whether the Hearing will be an evidentiary hearing, and without knowing whether Plaintiff or Defendants intend to put on witnesses. Moreover, among many other prejudices that it has suffered, ForwardGro has not been privy to discovery to date upon which Plaintiff relies in its Motion, and certainly has not been able to take any discovery of its own, as noted above.

Most fundamentally, the Court has not explained in any Order available to ForwardGro (as opposed to the Court's comments at the TRO Hearing, to which ForwardGro was not invited to attend) why the Court believes a preliminary injunction hearing that includes consideration of ForwardGro's License is even appropriate in the first place, as ForwardGro has not been a party to this case—having been expressly denied intervention by this Court—and as Plaintiff (to our knowledge) has not specifically requested that any preliminary injunction apply to ForwardGro's License.

“Procedural due process protections dictate that, at a minimum, the deprivation of property by adjudication requires that a party receive notice and a reasonable opportunity to be heard *consistent with the circumstances of the taking*.” *Sapero v. Mayor & City Council of Baltimore*, 398 Md. 317, 346 (2007) (emphasis added) (collecting cases). “The opportunity to be heard is the fundamental requisite of due process of law.” *Id.* (collecting cases).

In *Sapero*, the Court of Appeals held that the appellant, Sapero, did not have a legally sufficient opportunity to be heard, even though “[h]e received notice of the [appellee’s] petitions, filed an answer, and a hearing was held.” *Id.* Despite the lower tribunal’s formulaic following of Maryland’s procedural due process mandate, the Court of Appeals found that Sapero’s purported “opportunity to be heard” was no such thing, because it was not “meaningful, reasonable, and appropriate to the nature of the case.” *Id.* Particularly, the Court of Appeals concluded that procedural due process was deficient because the underlying actions “are apparently truncated proceedings, in which the property owner, whose property rights are at issue, does not have sufficient access to general discovery in aid of litigation.” *Id.* at 346-47.

This is precisely what is occurring here. In the end, ForwardGro is attending the June 2 Hearing effectively blind. It has been barred by the Court from participating in any *meaningful* way in this litigation. It has not been provided the opportunity to take or propound discovery, to attend or sit for depositions, or to *in any meaningful way* analyze or attempt to rebut Plaintiff’s claims.

This is not due process. Any preliminary injunction cannot be extended to ForwardGro for this reason alone.⁴

⁴ As explained above, the TRO Hearing was not properly noticed and thus the temporary restraining order was issued without appropriate due process. As a consequence, the temporary restraining order should be dissolved. But in any case, if it is not, no preliminary injunction should be issued against ForwardGro’s License.

2. Any Suspension of ForwardGro's License Would Violate ForwardGro's Constitutionally-Protected Fifth Amendment and Substantive Due Process Rights

It is incontrovertible that, under both Maryland and Fourth Circuit law, possession of a license provides a party with a vested property right in that license. *See* note 1, *supra*. While the MMCC ostensibly could suspend ForwardGro's License, it may do so only pursuant to its authority and only after providing appropriate due process. MMCC has not taken any such action and has no basis to do so. The bottom line, therefore, is that ForwardGro currently is in possession of a validly issued License. Any "suspension" of that License—even for a relatively short period of time—would serve to deprive ForwardGro of its substantive due process right to the License and the rights attendant to it. Indeed, it is unclear *why* the Court would expand the preliminary injunction to take away a constitutional property right ForwardGro currently possesses.

Additionally, an expansion of a preliminary injunction to completely deprive ForwardGro's use of its License could be considered a taking without just compensation, which would violate the Fifth Amendment of the United States Constitution and Article III, Section 40 of the Maryland Constitution. *Cf. Stop the Beach Renourishment, Inc. v. Florida Dep't of Envtl. Prot.*, 560 U.S. 702, 714 ("Our precedents provide no support for

the proposition that takings effected by the judicial branch are entitled to special treatment, and in fact suggest the contrary. . . .”). To deprive ForwardGro of its constitutionally-protected right to the License without just compensation, and without due process, is unconstitutional. It is also unnecessary in this matter, as Plaintiff has not even requested the relief contemplated by the Court, as discussed next.

II. Plaintiff Did Not Request This Relief

Nowhere in its Motion did Plaintiff request the relief of depriving ForwardGro of the use of the License.⁵ There is no reason for the Court, on its own initiative, to expand any potential injunction beyond Plaintiff’s requests.

Any claim that Plaintiff would be harmed by ForwardGro’s continued use of its License while this matter is pending—spurious as such argument may be—is undermined by the fact that Plaintiff sat on its rights for six and a half months before filing its Motion. (See DE 1; DE 72/0). And, even then—when, by Plaintiff’s own reckoning, the issuance of the License to ForwardGro was reasonably foreseeable—Plaintiff failed to request an injunction as to that License. See Motion, p. 3 (“ . . . it appears from recent media reports that the [MMCC] will be performing final facility inspections *and granting medical cannabis grower licenses in the upcoming days and weeks . . .*”) (Emphasis added).

⁵ ForwardGro has no knowledge as to whether Plaintiff requested this relief at the TRO Hearing, as ForwardGro was not invited to attend that Hearing. See Section I, *supra*.

Plaintiff unequivocally was on notice, when it filed the Motion, that the issuance of the License to ForwardGro was imminent. *See* Motion, p. 14 (“Ms. Cox also interviewed several company executives for ForwardGro . . . who indicated that ForwardGro was poised next week to receive final inspection to secure a license to grow medical marijuana and that [a]s early as next month [*i.e.*, May 2017], the Maryland Medical Cannabis Commission could allow [ForwardGro] to turn on the lights and begin growing the first medical marijuana plants . . .” (Brackets in Motion) (quotations omitted). Yet, despite Plaintiff’s actual knowledge, Plaintiff sat on its rights in relation to ForwardGro, refusing to even request any injunctive relief as to ForwardGro’s (at that time) prospective License.⁶ There is no reason for this Court to reward Plaintiff’s (in)activity in this regard.

III. Injunctive Relief is by Definition Prospective, and Cannot Apply to Past Harms

“[I]njunctive relief is a preventive and protective remedy, *aimed at future acts*, and is not intended to redress past wrongs.” *Ehrlich*, 394 Md. at 733 (emphasis in original) (collecting cases). A preliminary injunction thereby “is designed to . . . sustain[] the status quo.” *Id.* (collecting cases). The Maryland appellate courts have noted that courts must exercise “extreme caution” before issuing a preliminary injunction—and, even then, the

⁶ Of course, at the time of the filing of the Motion, ForwardGro was a non-party. It is unclear whether a party can request injunctive relief—and whether a court can provide the same—against a person that is not a party to an action. *See* Md. Rule 15-505(a) (“A court may not issue a preliminary injunction without notice to all parties and an opportunity for a full adversary hearing on the propriety of its issuance.”).

injunction should be used to prevent future, not past, harm. *See Anne Arundel Cty. v. Whitehall Venture*, 39 Md. App. 197, 200 (1978) (“We note further that the exercise of that sound discretion in issuing a mandatory injunction is to be exercised only with extreme caution. An injunction is to be issued only where the intervention of equity is necessary to prevent an irreparable injury.”) (Citations omitted); *Ehrlich*, 394 Md. at 733 (2006) (“injunctive relief is a preventive and protective remedy, aimed at future acts, and is not intended to redress past wrongs.”).

A preliminary injunction suspending ForwardGro’s License would not *preserve* the status quo. In fact, it would *subvert* it. ForwardGro currently is in possession of the License. Applying any potential preliminary injunction to ForwardGro would serve to extinguish the current status quo—substantively harming ForwardGro’s rights, while doing little if anything to uphold whatever purported rights Plaintiff may have, of which it has none.⁷ This turns the concept of preserving the status quo on its head.

⁷ Nowhere in its Motion does Plaintiff explain or prove its right or entitlement to a license. In any case, there is no reason to suspend ForwardGro’s License, as there are 14 slots still available for Stage 2 licenses; therefore, MMCC still can review Plaintiff’s application and afford it relief by granting it a license, if qualified, without the need to suspend ForwardGro’s License. Additionally, because ForwardGro’s growing facility is located in Anne Arundel County, there is no geographic conflict (a factor noted in the MMCC regulations) with Plaintiff’s proposed growing facility, which on information and belief, would be located in Easton, Maryland (Talbot County).

IV. Each of the Four Factors This Court Must Consider Before Granting a Preliminary Injunction Against ForwardGro Weighs Heavily in ForwardGro's Favor

A preliminary injunction is an “extraordinary remedy.” *Holiday Universal Club of Rockville, Inc. v. Montgomery Cty*, 67 Md. App. 568, 576 (1986). In considering whether to grant a preliminary injunction, a trial court must examine the following four factors:

(1) the likelihood that the plaintiff will succeed on the merits; (2) the “balance of convenience” determined by whether greater injury would be done to the defendant by granting the injunction than would result by its refusal; (3) whether the plaintiff will suffer irreparable injury unless the injunction is granted; and (4) the public interest.

Schade v. Maryland State Bd. of Elections, 401 Md. 1, 36 (2007) (citations omitted). The burden of proving the facts necessary to satisfy these factors rests on the party seeking the interlocutory injunction. *Fogle v. H & G Rest., Inc.*, 337 Md. 441, 456 (1995). Crucially, “[t]he failure to prove the existence of even one of the four factors precludes the grant of injunctive relief.” *Ehrlich*, 394 Md. at 708 (quotation omitted).

ForwardGro contends that Plaintiff cannot show that *any* of the four factors are in its favor. Yet, it would take an astounding amount of willful blindness to conclude that *all* of the four factors weigh against ForwardGro, mandating that ForwardGro should be deprived of the use of its License.

1. The Public Interest

The Maryland Legislature has determined that it is in the public interest “to make medical cannabis available to qualifying patients in a safe and effective manner.” Md.

Health-General Code § 13-3302(c) (2017). Any court-imposed suspension of ForwardGro's License by way of a preliminary injunction would serve to prevent this vital, statutory public interest from coming to fruition, and to needlessly withhold medical cannabis from qualifying Maryland patients.

Plaintiff has argued that “ensuring . . . that offending parties are held accountable, unquestionably serves the public interest.” Motion, p. 25. There is no dispute as to whether ForwardGro is an “offending party.” It is not. On the contrary, ForwardGro is a law-abiding entity, whose diligence and good faith efforts allowed it to obtain the License. There is nothing in the public interest, *or in Plaintiff's Motion itself*, which would weigh against ForwardGro on this prong. At the very least, the public interest is far more heavily weighted toward allowing ForwardGro to continue to use its License, thereby fulfilling the mandate of the Maryland Legislature to provide medical cannabis to qualifying patients in a safe and effective manner.

2. The Harm

In evaluating the harm that a preliminary injunction suspending ForwardGro's License would cause, the Court should review not just the real financial harm to ForwardGro—which would be significant—and any theoretical financial harm Plaintiff may suffer. Most importantly, the Court should look to the harm that a preliminary injunction suspending ForwardGro's License would have on sick and disabled Maryland citizens.

If a preliminary injunction would suspend ForwardGro's License, those qualified Maryland patients would have no access to medical cannabis. The harm to these patients—the number of whom is at least in the thousands—would be vast. Many of them will continue to suffer from excruciating pain, which medical cannabis could alleviate. Many of them will continue to have epileptic seizures, which medical cannabis could help prevent.

With this Memorandum, ForwardGro has attached four affidavits. *See* Exhibits C, D, E and F attached hereto. The first affidavit is that of Ms. Gail Rand, ForwardGro's Chief Patient Advocate and Chief Financial Officer. *See generally* Exhibit C. Ms. Rand is also the mother of a 7-year-old child with severe special needs, who suffers from epilepsy, autism, and attention deficit hyperactivity disorder. Having done extensive research into the issue, Ms. Rand was overjoyed to discover that medical cannabis could ease her son's seizures, providing him relief from physical harm.

Ms. Rand is concerned about the financial future of ForwardGro, should the Court choose to extend the preliminary injunction to suspend the License. But it is clear from her affidavit that she is even more concerned with the well-being of her son, and other qualified Maryland patients like him. Forcing those children to suffer pain or to continue to experience unnecessary seizures because of a purported financial harm Plaintiff has not even enumerated simply is cruel.

Exhibit D is the affidavit of Dr. Debra Kimless, ForwardGro's medical director. Dr. Kimless provides the Court with numerous examples of how medical cannabis eases the pain—and, in some cases, literally saves the lives—of individuals. These are not financial statistics. These are not numbers. These are living, breathing people, people who will live in pain without access to medical cannabis. People who may die.

On the other side of the coin, Plaintiff has alleged that it is continually being harmed because of its "estimates" that a grower's license may "be worth many millions of dollars" to it. Motion, p. 23. Notably, Plaintiff's analysis does not include any reference to the physical harm to qualified Maryland patients should a preliminary injunction issue that suspends ForwardGro's License.

Plaintiff writes: "Plaintiff's losses will not be easily calculated or compensated by money damages." *Id.* at 25. The same could be said of the thousands of qualified Maryland patients who will suffer, and who may die, due to the expansion of any preliminary injunction to include the suspension of ForwardGro's License. Plaintiff, in its Motion, could not have put it better: "[S]uch damage is incalculable, not incalculably great or small, just incalculable." *Fed. Leasing, Inc. v. Underwriters at Lloyd's*, 650 F.2d 495, 500 (4th Cir. 1981)

Actual knowledge of pain and possible death should a preliminary injunction be expanded. Estimates of potential monetary benefits—for which Plaintiff provides a total

of no evidentiary backup—should a preliminary injunction be denied. This prong poses no real question. The balance of harms weighs heavily in ForwardGro’s favor.

3. The Balance of Convenience

This factor too weighs heavily in ForwardGro’s favor. ForwardGro and its vendors have expended significant amounts of time, energy, man-power and financial resources to receive its License. *See generally* Exhibit E, affidavit of Gary Magnum, Exhibit F, affidavit of Carol Loveless. ForwardGro currently is in possession of the License. Any preliminary injunction, applying to suspend ForwardGro’s License, would thereby abrogate the status quo. Plaintiff’s argument that “the requested relief will merely preserve the ‘status quo’”, Motion p. 22, is thereby inaccurate.

Furthermore, Plaintiff heavily relies in its Motion on the fact that “Defendants are not market participants, so they do not stand to lose economically” should a preliminary injunction be issued. *Id.* Unlike MMCC, to which Plaintiff’s Motion only is addressed, ForwardGro *is* a market participant, which stands to lose millions of dollars should any injunction be expanded to it.

Unlike the principals of ForwardGro, Plaintiffs have not spent eight million dollars retrofitting and specially equipping the greenhouse in Maryland and on the people power needed to develop procedures, train the team, ensure compliance and manage the facility. Should an injunction issue depriving ForwardGro of the use of its License, all of the money,

time, and manpower it spent will be lost. Unlike Plaintiff, therefore, ForwardGro faces real, tangible losses, should any injunction be expanded to deprive it of its License.

The balance of convenience weighs in favor of ForwardGro.

4. The Likelihood of Success

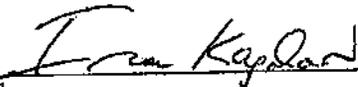
ForwardGro believes that Plaintiff will not succeed on the merits of its case. However, because ForwardGro has been barred from taking discovery in this action, as its Motion to Intervene was denied in February, it cannot provide a full argument at this time as to why Plaintiff's claims are erroneous.

ForwardGro looks forward to taking discovery once the Court confirms that ForwardGro is a Defendant in this case. Until discovery is completed, ForwardGro states, on information and belief, that it does not believe Plaintiff's Complaint will prevail. Therefore, ForwardGro believes, this prong also is in its favor. In any case, even should the Court believe that Plaintiff has a strong likelihood of success, the Court should not issue a preliminary injunction depriving ForwardGro of its License, as the remaining three prongs weigh heavily in ForwardGro's favor.

CONCLUSION

Any preliminary injunction this Court may issue should not affirmatively suspend the License and deprive ForwardGro of the continued use of its License.

Respectfully submitted,

By: 
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Joseph D. Wilson

Bezalel Stern (*pro hac vice* to be filed)

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Dated: May 30, 2017

CERTIFICATE OF SERVICE

I HEREBY certify that on this 30th day of May, 2017, a copy of the foregoing was served, by first class mail, postage prepaid, and via email, on:

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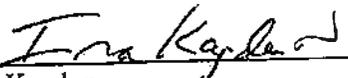

Ira T. Kasdan

Exhibit A

GTI MARYLAND, LLC, et. al.,	*	IN THE
	*	
Plaintiffs	*	CIRCUIT COURT
	*	
V	*	FOR
	*	
NATALIE M. LAPRADE MARYLAND	*	BALTIMORE CITY
MEDICAL CANNABIS COMMISSION,	*	
et. al.,	*	
	*	
Defendants.	*	CASE: 24-C-16-005134

* * * * *

TRANSCRIPT OF OFFICIAL PROCEEDINGS
(Motions Hearing)

BEFORE: THE HONORABLE BARRY G. WILLIAMS, Judge

DATE: February 21, 2017

APPEARANCES:

For the Plaintiff: Philip Andrews, Esquire
Louis P. Malick, Esquire
Christopher C. Jeffries, Esquire

For the Proposed
Intervenors: Arnold Weiner, Esquire
Michael Berman, Esquire

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**Transcriber's Note: As requested, the Court's Ruling only has been transcribed.

EXCERPT OF PROCEEDINGS

(On the record - 02:59:48 p.m.)

COURT'S RULING

1 THE COURT: You may be seated. The Court has
2 been called upon to determine whether or not intervention
3 either as a right admissibly appropriate in these two
4 matters. The proposed intervenors, John and Jane Doe,
5 were prospective network patients. Certain proposed
6 grower's who received Stage I approval in turning those
7 entities received a license to grow cannabis and the
8 Coalition for Patient Medicinal Access, LLC and Company
9 formed to advance the interest of patients and growers.

10 The Court has reviewed all relevant case law
11 including, but not limited to, Maryland National Capital
12 Park and Planning Commission v. Town of Washington Grove,
13 where the Court discusses standard for intervention of
14 right under Maryland Rule 2-214(a). And what the Court
15 stated, that the rule contains four requirements a person
16 must satisfy in order to intervene as a right. 1); the
17 application was timely, 2); the person claimed an interest
18 related to the property or transaction that is the
19 substance of the action, the person is so situated that
20 the disposition of the action as a practical matter may
21 impair or impede that person's ability to protect their
22 interest. The persons interest is not adequately
23
24
25

1 represented by existing parties to the suit.

2 As the Court noted during arguments, the Court
3 does not need to assess the timeliness of the application.
4 Again, I would find that it was timely given the limited
5 time since the filing of both suits. Part II, the
6 proposed intervenors' claim and interest relating to the
7 transactions that are the subject of these actions. The
8 proposed intervenors believe that they should be allowed
9 in as a matter of right, because if these two complainants
10 are allowed to go forward, the possible time and money
11 loss, which is speculative, could effect their ability to
12 proceed as growers or receive medical cannabis.

13 While this may be true, the first issue is to
14 determine what the transactions that are the subject of
15 this action. This Court finds that the transactions in
16 both cases stem from the applicable or implementation of
17 the statute by the Commissioner, and whether or not the
18 statute has been applied or implemented in an
19 unconstitutional, arbitrary, or capricious manner. The
20 intervenors claim an interest, but this Court finds that
21 the alleged interest is not applicable here. One can
22 always claim an interest in litigation if they stand to
23 benefit from the implementation of legislation that allows
24 parties to be involved in commerce regulated by the
25 government. But that is not the true issue here in your

1 case.

2 The issue at hand in the GTI case is whether or
3 not the Commission, by allegedly removing GTI and MCP from
4 the initial list of 15 growers to make it out of State I
5 and replacing them on the list of Stage I awardees with
6 two proposed growers who allegedly scored lower and those
7 two entities acted in an arbitrary or capricious manner.
8 If that is not the finding, then the process would
9 continue. If the Court does make that finding, then
10 theoretically the Court could order specific performance.
11 If ordered, this could effect only two entities, Holistic,
12 LLC and Shore Naturals, LLC, not any of the proposed
13 intervenors.

14 Holistic has filed a Motion to Intervene and the
15 Court will rule on that at a later time. For the AMM
16 litigation, the Court may be called upon to determine
17 whether or not the process used by the Commission in
18 reviewing and granting Stage I approval to medical
19 cannabis grower license applicants was done in a way that
20 was arbitrary, capricious, or potentially
21 unconstitutional. The Commission has a true interest in
22 making sure that the Court does not make that finding.
23 And so the arguments of the Office of the Attorney General
24 is uniquely suited to advance the appropriate arguments.
25 If the Court does not find the actions unconstitutional,

1 arbitrary, or capricious, then the process would continue.

2 This Court does understand that the statute was
3 recently enacted and that it has not gone under
4 significant scrutiny. There's no history of
5 administrative and judicial rulings for the statute.
6 There are allegations that the process was flawed at the
7 inception and at the application. This Court does not
8 know if it is true, but does note that the intervener's
9 concerns can only be address after a determination of the
10 statute as applied and implemented by the Commission was
11 not arbitrary, capricious, or unconstitutional. Those
12 issues have to do with the statute and not the tangential
13 issues requested.

14 The Court therefore does not find that the
15 intervenors have sufficient interest that are connected to
16 the actions involved in each case. And that's whether the
17 person is so situated that the disposition of the action
18 as a practical matter may impair or impede that person's
19 ability to protect that interest. Once again, this Court
20 has already determined that the claim of interest in this
21 case for the proposed intervenors is misplaced given the
22 allegations presented by the plaintiffs in each case.
23 These are specific issues concerning actions of the
24 subcommittee and the committee in implementing the
25 statute. And once again, arguments that the Commission is

1 uniquely situated to respond to, not the growers, the
2 potential users of the medical cannabis grown.

3 The Court understand that the proposed
4 intervenors have a general interest in the outcome of the
5 case. The growers want nothing to stand in the way of the
6 process which would allow them to get a license, the
7 patients certainly want access to medical cannabis as soon
8 as possible. Those wishes do not rise to the level of a
9 right to intervene.

10 Finally, there's the issue of adequate
11 representation by the existing parties. This Court is
12 satisfied that the Commission, represented by the Office
13 of the Attorney General and not the proposed intervenors
14 before the Court today, is the appropriate defendant to
15 represent the issue of whether or not the statute as
16 implemented was done in an arbitrary, capricious, or
17 unconstitutional manner in part as alleged by the
18 replacement of two growers in the GTI matter. When total,
19 as alleged by the overall application of the statute,
20 in the AMM matter. So far this Court has seen vigorous
21 representation by the Attorney General on behalf of the
22 Commission. Simply because a litigation may not be going
23 in the matter, that a private entity thinks it should,
24 whether the arguments are made are different, there's no
25 basis to allow intervention. This Court is also mindful

1 that there is the potential of permissive intervention.
2 The Court will incorporate by reference all relevant
3 arguments made in responding to the motion as a matter of
4 right and add the following.

5 The Court does not believe that it would be
6 either appropriate or necessary to allow the proposed
7 intervenors in either case, pursuant to the permissive
8 right to intervention under Rule 2-214(b). The Court has
9 considered whether intervention would unduly delay the
10 adjudication of either claim and it determines that it
11 would. Interestingly enough, the proposed intervenors
12 seemingly have an interest in speeding up the process,
13 because they want to begin growing as soon as possible,
14 and want nothing to stand in the way of the next phase of
15 licensing.

16 While understanding the desire for their speed,
17 filing various motions does add time to these proceedings.
18 The Plaintiffs have filed their claims and as noted above,
19 the issue here is whether or not the actions of the
20 Defendant were arbitrary, capricious, or potentially
21 unconstitutional. The Commission is ready, and willing
22 and able to defend its actions. Allowing intervenors at
23 this stage does not assist in that determination.
24 Therefore the Motion to Intervene as a matter of right
25 impermissibly is denied.

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The Court will now hear the arguments on the Motion to Dismiss filed by the Commission. Thank you, Counsel.

(Excerpt concluded - 03:06:55 p.m.)

TRANSCRIBER'S CERTIFICATE

This is to certify that the excerpt of proceedings in the matter of GTI Maryland, LLC, et. al. v. Natalie M. LaPrade Maryland Medical Cannabis Commission, et. al., case numbers 24-C-16-005134, heard in Circuit Court for Baltimore City on February 21, 2017, was recorded on digital media with video.

I hereby certify that the excerpt of proceedings herein contained were transcribed by me or under my direction. That said transcript is a true and accurate record to the best of my ability and constitutes the official transcript thereof.

In witness thereof, I have hereunto subscribed my name on this 22nd day of February, 2017.


Sherry R. Miller, President



<p style="text-align: center;">A</p> <p>ability 3:24 4:11 6:19 10:12 able 8:22 access 3:11 7:7 accurate 10:11 ACCUSCRIBES 1:19 acted 5:7 action 3:22,23 4:15 6:17 actions 4:7 5:25 6:16 6:23 8:19,22 add 8:4,17 address 6:9 adequate 7:10 adequately 3:25 adjudication 8:10 administrative 6:5 admissibly 3:6 advance 3:12 5:24 al 1:1,5 10:4,5 Alfred 1:16 allegations 6:6,22 alleged 4:21 7:17,19 allegedly 5:3,6 allow 7:6,25 8:6 allowed 4:8,10 Allowing 8:22 allows 4:23 AMM 5:15 7:20 Andrews 1:12 APPEARANCES 1:11 applicable 4:16,21 applicants 5:19 application 3:20 4:3 6:7 7:19 applied 4:18 6:10 appropriate 3:6 5:24 7:14 8:6 approval 3:9 5:18 arbitrary 4:19 5:7,20 6:1,11 7:16 8:20 arguments 4:2 5:23 5:24 6:25 7:24 8:3</p>	<p>9:1 Arnold 1:14 assess 4:3 assist 8:23 Attorney 5:23 7:13 7:21 Avenue 1:20 awardees 5:5</p> <hr/> <p style="text-align: center;">B</p> <p>Baltimore 1:4,20 10:7 BARRY 1:9 basis 7:25 behalf 7:21 Belcuore 1:16 believe 4:8 8:5 benefit 4:23 Berman 1:14 best 10:12</p> <hr/> <p style="text-align: center;">C</p> <p>C 1:13 called 3:5 5:16 cannabis 1:4 3:10 4:12 5:19 7:2,7 10:5 Capital 3:14 capricious 4:19 5:7 5:20 6:1,11 7:16 8:20 case 1:6 3:13 5:1,2 6:16,21,22 7:5 8:7 10:6 cases 4:16 Certain 3:8 certainly 7:7 CERTIFICATE 10:1 Certification 2:5 certify 10:3,9 CET-745 1:18 Christopher 1:13 Circuit 1:2 10:6 City 1:4 10:7 claim 4:6,20,22 6:20</p>	<p>8:10 claimed 3:20 claims 8:18 Coalition 3:11 commerce 4:24 Commission 1:4 3:15 5:3,17,21 6:10,25 7:12,22 8:21 9:2 10:5 Commissioner 4:17 committee 6:24 Company 3:11 complainants 4:9 concerning 6:23 concerns 6:9 concluded 9:4 connected 6:15 considered 8:9 constitutes 10:12 contained 10:10 contains 3:18 CONTENTS 2:1 continue 5:9 6:1 Counsel 9:3 Court 1:2 3:4,4,13,16 3:17 4:2,2,15,20 5:9,10,15,16,22,25 6:2,7,14,19 7:3,11 7:14,20,25 8:2,5,8 9:1 10:6 Court's 2:4,7 3:3 Cultivation 1:15</p> <hr/> <p style="text-align: center;">D</p> <p>DATE 1:10 day 10:15 defend 8:22 defendant 7:14 8:20 Defendants 1:6 delay 8:9 denied 8:25 desire 8:16 determination 6:9 8:23 determine 3:5 4:14 5:16</p>	<p>determined 6:20 determines 8:10 different 7:24 digital 1:23 10:8 direction 10:11 discusses 3:16 Dismiss 9:2 disposition 3:23 6:17 Doe 3:7</p> <hr/> <p style="text-align: center;">E</p> <p>Edward 1:16 effect 4:11 5:11 either 3:6 8:6,7,10 enacted 6:3 entities 3:10 5:7,11 entity 7:23 Esquire 1:12,12,13 1:14,14,16,16 et 1:1,5 10:4,5 excerpt 3:1 9:4 10:3 10:9 existing 4:1 7:11</p> <hr/> <p style="text-align: center;">F</p> <p>far 7:20 Fax 1:21 February 1:10 10:7 10:15 filed 5:14 8:18 9:2 filing 4:5 8:17 Finally 7:10 find 4:4 5:25 6:14 finding 5:8,9,22 finds 4:15,20 first 4:13 flawed 6:6 following 8:4 formed 3:12 forward 4:10 four 3:18</p> <hr/> <p style="text-align: center;">G</p> <p>G 1:9 general 5:23 7:4,13 7:21</p>
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<p>given 4:4 6:21 go 4:10 going 7:22 government 4:25 granting 5:18 Grove 3:15 grow 3:10 grower 5:19 growers 3:9,12 4:12 5:4,6 7:1,5,18 growing 8:13 grown 7:2 GTI 1:1 5:2,3 7:18 10:4</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hand 5:2 hear 9:1 heard 10:6 Hearing 1:8 hereunto 10:14 history 6:4 Holistic 5:11,14 HONORABLE 1:9</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>II 4:5 impair 3:24 6:18 impede 3:24 6:18 impermissibly 8:25 implementation 4:16 4:23 implemented 4:18 6:10 7:16 implementing 6:24 inception 6:7 including 3:14 incorporate 8:2 initial 5:4 interest 3:12,20,25 3:25 4:6,20,21,22 5:21 6:15,19,20 7:4 8:12 Interestingly 8:11 intervene 3:19 5:14 7:9 8:24</p>	<p>intervener's 6:8 intervenors 1:14 3:7 4:6,8,20 5:13 6:15 6:21 7:4,13 8:7,11 8:22 intervention 3:5,16 7:25 8:1,8,9 involved 4:24 6:16 issue 4:13,25 5:2 7:10 7:15 8:19 issues 6:12,13,23</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Jane 3:7 Jeffries 1:13 John 3:7 Judge 1:9 judicial 6:5</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kelly 1:18 know 6:8</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>LaPrade 1:4 10:5 law 3:13 legislation 4:23 level 7:8 license 3:10 5:19 7:6 licensing 8:15 limited 3:14 4:4 list 5:4,5 litigation 4:22 5:16 7:22 LLC 1:1 3:11 5:12,12 10:4 loss 4:11 Louis 1:12 lower 5:6</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>M 1:4 10:4 making 5:22 Malick 1:12 manner 4:19 5:7 7:17 Maryland 1:1,4,15</p>	<p>1:20 3:14,17 10:4,5 matter 3:23 4:9 6:18 7:18,20,23 8:3,24 10:4 matters 3:7 MCP 5:3 media 1:23 10:8 medical 1:4 4:12 5:18 7:2,7 10:5 Medicinal 3:11 Michael 1:14 Miller 10:23 mindful 7:25 misplaced 6:21 money 4:10 motion 5:14 8:3,24 9:2 motions 1:8 8:17</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name 10:15 Natalie 1:4 10:4 National 3:14 Naturals 5:12 necessary 8:6 need 4:3 network 3:8 note 2:7 6:8 noted 4:2 8:18 numbers 10:6</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>Office 5:23 7:12 official 1:7 10:13 once 6:19,25 order 3:19 5:10 ordered 5:11 outcome 7:4 overall 7:19</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 1:12 p.m 3:2 9:4 PAGE 2:3 Park 3:15 part 4:5 7:17</p>	<p>parties 4:1,24 7:11 Patient 3:11 patients 3:8,12 7:7 performance 5:10 permissive 8:1,7 person 3:18,20,22 6:17 person's 3:24 6:18 persons 3:25 phase 8:14 Philip 1:12 Plaintiff 1:12 plaintiffs 1:2 6:22 8:18 Planning 3:15 possible 4:10 7:8 8:13 potential 7:2 8:1 potentially 5:20 8:20 practical 3:23 6:18 presented 6:22 President 10:23 private 7:23 proceed 4:12 proceedings 1:7,23 3:1 8:17 10:3,9 process 5:8,17 6:1,6 7:6 8:12 Processing 1:16 produced 1:24 property 3:21 proposed 1:13 3:7,8 4:6,8 5:6,12 6:21 7:3,13 8:6,11 prospective 3:8 protect 3:24 6:19 pursuant 8:7</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 10:23 ready 8:21 receive 4:12 received 3:9,10 record 3:2 10:12</p>
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Exhibit B

From: Alyson Parker-Kierzewski <Alyson.Kierzewski@mdcourts.gov>

Date: May 25, 2017 at 6:07:36 PM EDT

To: John Pica <JPica@johnpica.com>, Brian Brown <bbrown@brownbarron.com>, Byron Warnken <byron@warnkenlaw.com>, Heather Nelson -DHMH- <heather.nelson1@maryland.gov>, Michael Berman <MBerman@rwlls.com>, "Alan M. Rifkin" <arifkin@rwlls.com>, "Robert.mccray@maryland.gov" <Robert.mccray@maryland.gov>

Subject: Order from May 25, 2017, TRO hearing

Counsel,

Please be advised that, I have faxed out the TRO Order to all parties. The original has been filed with the Clerk's office and you should receive a time-stamped copy from them.

Mr. Berman and Mr. Rifkin, I have included you in this message because the Court, at the TRO hearing, invited counsel for only ForwardGro, LLC, to briefly argue at the Preliminary Injunction Hearing scheduled for June 2, 2017 at 10:00am in Courtroom 528E, only on the issue of if the Preliminary Injunction is granted whether or not the license issued to ForwardGro, LLC should be suspended. To that end, I have sent you a copy of the TRO order as well.

Best,

Alyson Parker Kierzewski
Law Clerk to the Honorable Barry G. Williams
Baltimore City Circuit Court
111 N. Calvert Street, 534E
(410) 545-3516 (office)
alyson.kierzewski@mdcourts.gov

CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

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Exhibit C

IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND

ALTERNATIVE MEDICINE
MARYLAND LLC,

Plaintiff,

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS, COMM'N, *et*
al.,

Defendants.

Case No. 24-C-16005801
Hon. Barry G. Williams

AFFIDAVIT OF GAIL L. RAND

I, GAIL RAND, state that:

1. I have personal knowledge of the facts contained herein. I am over 18 years of age and a citizen of Maryland. I am competent to testify to the facts contained herein.
2. I provide this Affidavit in support of ForwardGro, LLC's Opposition to Preliminary Injunction in the above-captioned action.
3. ForwardGro, LLC ("ForwardGro") is a Maryland limited liability company formed to obtain a license from the Natalie M. LaPrade Maryland Medical Cannabis Commission ("MMCC") to cultivate medical cannabis.
4. I am the Chief Financial Officer and Patient Advocate at ForwardGro, as well as an owner and member of the company. In addition, I am an active, licensed

Certified Public Accountant in the State of Maryland and a member of the Maryland Association of Certified Public Accountants.

5. ForwardGro is a licensed operating entity that currently has nine full time employees. ForwardGro currently operates a greenhouse in Anne Arundel County, where it is currently cultivating medical cannabis. ForwardGro's medical director is a board-certified anesthesiologist and nationally recognized presenter on the medical use of cannabis for pain management, cancer related uses, and as an opioid replacement.

6. On August 15, 2016, ForwardGro received pre-approval to cultivate medical cannabis from the MMCC.

7. The process to obtain the final license entailed an extensive amount of work to get our facility ready for operation, our procedures documented, our team trained and our systems operational.

8. The MMCC performed extensive due diligence and a thorough inspection of our 1-acre greenhouse and related operations center, including all the related security protocols.

9. Getting our operations ready to grow in our high technology greenhouse required ForwardGro's owners to contribute a significant amount of funds.

10. The ForwardGro team spent a substantial amount of time, resources and expertise in order to ensure that the company was operational as soon as possible to provide medicine to the thousands of patients who could benefit from this medicine.

11. ForwardGro's ability to become quickly operational was facilitated by the experience of its principals – they have decades of agricultural experience between them

– and the fact that the principals already owned the Anne Arundel property on which our grow facility is located. At the time ForwardGro applied for a medical cannabis license, the ability to retrofit this existing property into a growing facility allowed ForwardGro to become quickly ready for its licensure inspection.

12. ForwardGro also wrote its application to the MMCC in rapid time. Doing that enabled us to implement our standard operating procedures, processes, and systems in rapid time when we received our license, as we were extremely familiar with the plan.

13. ForwardGro's efforts and investment paid off. On May 17, 2017, the MMCC issued ForwardGro a license to cultivate medical cannabis in Maryland at our Anne Arundel County facility. I was present at the MMCC meeting on May 17, 2017 at which that license was issued.

14. At that meeting, Commissioner Dario Broccolino, who is the State's Attorney for Howard County, gave the report of the Final Review Subcommittee recommending that the "grower application and preapproval be converted to the issuance of a grower's license." During the discussion prior to the vote, Commissioner Broccolino commended ForwardGro for being the first ones out of the gate and getting Maryland's medical cannabis program rolling and operational. Further, at the May 17th MMCC meeting, Patrick Jameson, Executive Director of MMCC mentioned that over 6,000 patients have already applied to receive permits to obtain medical cannabis, and that over 4,000 have been registered. A May 17, 2017 *Baltimore Sun* article states that 276 physicians have registered to be able to recommend medical cannabis to patients.

15. I am the mother of a 7-year old child with severe special needs who suffers from Epilepsy, Autism and Attention Deficit Hyperactivity Disorder. I have been advocating for safe access to medical cannabis in Maryland since 2013.

16. I was overjoyed that ForwardGro was the first licensee, because I knew we were on the critical path in getting medicine for my son and many others who suffer and who would be helped by receiving medical cannabis treatment.

17. I am extremely concerned about what any restraint or injunction on ForwardGro's ability to cultivate and sell medical cannabis, and what that could mean for my child's health and well-being.

18. I have many friends in other parts of the country who are seeing remarkable results with medical cannabis treatments, particularly in managing seizures. My son needs access to the regulated, lab-tested, and quality medicine that would be offered by ForwardGro in Maryland.

19. Any delay in the production and distribution of this medicine would harm patients who are suffering and have already waited years for safe access to this potentially life-saving medicine.

20. Any restraint or injunction of the licensing process creates substantial uncertainty for patients and for ForwardGro.

FURTHER AFFIANT SAYETH NOT.

[The remainder of this page is purposefully blank; the signature page follows.]

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Executed on May 30, 2017 in Lothian, Maryland.

Gail L. Rand

Gail L. Rand

Exhibit D

**IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND**

ALTERNATIVE MEDICINE
MARYLAND LLC,

Plaintiff,

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS, COMM'N, *et*
al.,

Defendants.

Case No. 24-C-16005801
Hon. Barry G. Williams

AFFIDAVIT OF DEBRA KIMLESS, M.D.

I, DEBRA KIMLESS, having been first duly sworn, upon oath, depose and state:

1. I have personal knowledge of the facts contained herein. I am over 18 years of age and a citizen of Pennsylvania. I am competent to testify to the facts contained herein.
2. I provide this Affidavit in support of ForwardGro, LLC's Opposition to Preliminary Injunction in the above-captioned action.
3. I am medical director for ForwardGro, LLC ("ForwardGro"), and a board-certified anesthesiologist. I joined the ForwardGro team at its inception.
4. I have studied the use of cannabis for medical purposes and its medical applications around the world and in this country.
5. In Israel, I learned a great deal about medical cannabis and its use. I met with Dr. Raphael Mechoulam, the scientist considered the father of cannabis research who

discovered the elements of the endocannabinoid system, and learned from him how medical cannabis interacts within human bodies and how it should be applied for medical uses. Additionally, I met with Dr. Lumir Hanus, a scientist who discovered many elements of the endocannabinoid system and learned about cutting edge applications of medical cannabis for the treatment of diseases, including cancer, epilepsy, and pain. I also met with Dr. Mikal Dor, the chief medical officer for the cannabis division of the Israeli Department of Health and discussed the importance of patient access to medical cannabis for the treatment of diseases. And in Israel, I watched the administration of medical cannabis to patients in hospitals, and spoke with them and their families to understand the benefits of medical cannabis.

6. In the Netherlands, I studied at the Masterclass at Bedrocan, their nation's medical cannabis producer where scientists and doctors and regulators from around the world became educated about the importance of medical cannabis through examining white paper reports, case studies and basic science research.

7. I have studied at conferences, courses and conventions to understand the medical application of cannabis.

8. I am a nationally recognized expert on the medical use of cannabis.

9. I personally guide over 170 patients in states where medical cannabis is legal and have them administer a microdose of medical cannabis oil.

10. I gather the patients' response to medical cannabis and I present this information as case studies at conferences nationally and internationally.

11. I am a nationally sought-after presenter on the medical use of cannabis for pain management, cancer related uses and as an opioid replacement.

12. I have presented case studies in Israel and England and at Harvard University to name the most recent.

13. For a few examples of some case studies:

- I guided the family of an 8-year old child with metastatic cancer who went from hospice to remission using microdose medical cannabis oil only.
- I guided a 70-year old otherwise healthy man with inoperable brain cancer that was resistant to chemotherapy to use microdose medical cannabis oil which resulted in the shrinking of the tumor and better cognitive functioning.
- I guided an 80-year old man with aggressive metastatic prostate cancer, which was unresponsive to conventional treatment, with microdose medical cannabis oil. He is now managing his cancer and is able to go to work every day.

14. I have helped to guide many patients to reduce or replace opioids with low dose medical cannabis oil.

15. My first-hand experiences with over 170 patients and my studying and understanding of the biochemistry, physiology and pharmacodynamics/kinetics of medical cannabis is that it is a life-saving life-improving medicine that has very low risk for side effects.

16. Maryland patients would receive similar benefits from medical cannabis with a low side effects risk and should be allowed access to medical cannabis.

17. Patients in Maryland have listened to my lectures. I am routinely contacted by patients or their families from Maryland begging for medical cannabis.

18. Preventing or suspending ForwardGro's ability to continue to act on its license to cultivate medical cannabis will be detrimental to the health and well-being of the patients in Maryland.

19. Among other detrimental impacts, prevention or suspension of ForwardGro's ability to continue to cultivate to safe, effective, standardized medical cannabis to patients will force many of them to go to the black market for cannabis, which could lead to exposure to potentially contaminated products that could be lethal.

20. Maryland has an opioid epidemic. Governor Hogan declared a state of emergency in March 2017 yet the death toll from overdoses continues to rise. Suboxone and methadone are not solving the problem. States with medical cannabis programs have a significantly lower overdose mortality rate. Withholding medical cannabis is costing the lives of Marylanders.

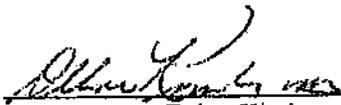
21. Children with epilepsy refractory to conventional therapies are dying waiting for medical cannabis.

22. Hospice patients in Maryland presently have no alternatives to opioids which is not a one-size fits all medication and is fraught with many negative side effects.

FURTHER AFFIANT SAYETH NOT.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Executed on May 30, 2017 in Leavenworth, MD



Debra Kimless, M.D.

Exhibit E

IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND

ALTERNATIVE MEDICINE
MARYLAND LLC,

Plaintiff,

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS, COMM'N, *et*
al.,

Defendants.

Case No. 24-C-16005801
Hon. Barry G. Williams

AFFIDAVIT OF GARY MANGUM

I, GARY MANGUM, state that:

1. I have personal knowledge of the facts contained herein. I am over 18 years of age and a citizen of Maryland. I am competent to testify to the facts contained herein.
2. I provide this Affidavit in support of ForwardGro, LLC's Opposition to Preliminary Injunction in the above-captioned action.
3. I am the Vice President and Chief Horticulturist at ForwardGro, LLC ("ForwardGro"), as well as an owner and member of ForwardGro. ForwardGro was formed to obtain a license from the Natalie M. LaPrade Maryland Medical Cannabis Commission ("MMCC") to cultivate medical cannabis.

4. On May 17, 2017, the MMCC issued ForwardGro a license to cultivate medical cannabis in Maryland at the company's Anne Arundel County facility. I was present at the MMCC meeting on May 17, 2017 at which that license was issued.

5. Getting our operations ready to grow in our high technology greenhouse required ForwardGro's owners to contribute a significant amount of funds. The ForwardGro team spent a substantial amount of time and expertise to ensure we were operational as soon as possible to provide medicine to the thousands of patients who could benefit from this medicine.

6. In addition to this patient-centric desire, the Maryland medical cannabis statute required completion within one year of award of stage 1 license.

7. Zoning & county specific cannabis-related regulatory requirements required significant engagement by the ForwardGro team in order to ensure full understanding and compliance with the regulatory requirements, in the most timely manner possible. The ability to retrofit an existing greenhouse and operations facility allowed for our ability to be ready for stage 2 final inspection within nine months of the stage 1 announcement.

8. The principals of ForwardGro have made a significant investment in being able to cultivate medical cannabis. The principals of ForwardGro have spent over \$8,100,000.00 on among other things:

- retrofitting and specially equipping the greenhouse at its Anne Arundel County into a state-of-the-art cannabis growing facility. The total cost of the greenhouse retrofit was \$6,824,383; and,

- for human resources – *i.e.*, the labor and specialized personnel needed to develop procedures, train the company’s cultivation team, ensure compliance with applicable regulations and law, manage the facility and tend to cultivation.

9. Should an injunction issue suspending ForwardGro’s License, and thus depriving it of the use of its License, the money, time, and manpower that ForwardGro has spent in the foregoing regards will be lost or, at a minimum, significantly impaired.

10. ForwardGro has hired employees and consultants and engaged vendors to provide it with necessary services for its cultivation operations. To date, nine employees have been hired who have passed background and drug tests, with more employees scheduled to be on-boarded over the next week. In addition to employees, ForwardGro has engaged specialty consultants in the field of agriculture (*e.g.*, integrated pest management and nutrient management planning), and a vendor that provides security agents to protect our facility. Anne Arundel County law requires multiple armed security agents at all times. Thus, our security agents, who are veterans, cover the facility 24 hours a day, seven days a week. The cost for our security service alone exceeds approximately \$650,000.00 annually.

11. I am the father of a 21-year old who suffers from epilepsy. Prior to the legislation being passed in Maryland legalizing medicinal cannabis, it was recommended by medical professionals that I pay attention to cannabis as a potential treatment for my son, even if it meant re-locating to a state where the use of medical cannabis was legal. I

was reconsidering re-locating to a different state prior to the passage of Maryland medical cannabis law.

12. I met Gail Rand, who would go on to become the CFO of ForwardGro and its Patient Advocate, while advocating to bring legal medical cannabis to Maryland for my son and thousands of others like him.

13. I am extremely concerned about what any restraint, suspension or injunction on ForwardGro's license to cultivate medical cannabis could mean for my child's health and well-being.

14. I have acquaintances in other parts of the country who are seeing remarkable results from the use of medical cannabis, particularly in managing seizures. My son needs access to the regulated, lab-tested, and quality medicine that could be offered by ForwardGro in Maryland.

15. In addition to my son, other persons will suffer should access to medical cannabis in Maryland be delayed. For example, a number of severely wounded combat veterans that have undergone many operations along with long term physical therapy at Walter Reed Army Medical Center. Some of these veterans have confided in ForwardGro that they see medical cannabis as a very important alternative to opioids for pain management. One of these severely wounded combat veterans is a lead on ForwardGro's security team.

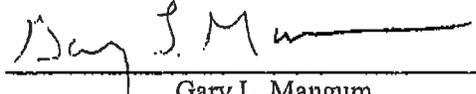
16. Any delay in the production of this medicine would harm patients who are suffering and have already waited years for safe access of this potentially life-saving medicine.

FURTHER AFFIANT SAYETH NOT.

[The remainder of the page is purposefully blank; the signature page follows.]

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Executed on May 30, 2017 in LOTHIAN, MARYLAND.



Gary L. Mangum

Exhibit F

**IN THE CIRCUIT COURT
FOR BALTIMORE CITY, MARYLAND**

ALTERNATIVE MEDICINE
MARYLAND LLC,

Plaintiff,

v.

NATALIE M. LAPRADE MARYLAND
MEDICAL CANNABIS, COMM'N, *et*
al.,

Defendants.

Case No. 24-C-16005801
Hon. Barry G. Williams

AFFIDAVIT OF CAROL LOVELESS

I, CAROL LOVELESS, having been first duly sworn, upon oath, depose and state:

1. I have personal knowledge of the facts contained herein. I am over 18 years of age. I am competent to testify to the facts contained herein.
2. I provide this Affidavit in support of ForwardGro, LLC's Opposition to Preliminary Injunction in the above-captioned action.
3. I am the owner of Elite Asset Protection. Elite Asset Protection was formed in August 2015, with the mission to hire US Military Veterans to provide security services to the Maryland Medical Cannabis Industry.
4. Elite Asset Protection has hired twelve security officers to secure the property, product and people of ForwardGro. All of the eight full time officers that Elite Asset Protection has engaged to do that have resigned from other full time jobs to accept this position. Three of the security officers have relocated to take this position.

5. The security staff serving ForwardGro includes a diverse group of individuals, including Black/African American individuals.

6. The annual expected revenue from Forward Gro to Elite Asset Protection is \$682,000.

7. Elite Asset Protection is a Woman Owned Business

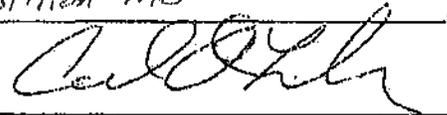
8. As the owner of Elite Asset Protection, I invested two years as a consultant and have personally financed expenditures to cover recruiting, hiring, licensing, training, uniforms, equipment and payroll for officers and staff to get this business off the ground. Suspension or loss of this business with ForwardGro would at this juncture create a financial loss of approximately \$275,000 and most likely require I file bankruptcy.

FURTHER AFFIANT SAYETH NOT.

[The remainder of this page is purposefully blank; the signature page follows.]

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

Executed on May 30, 2017 in Lottion MD

A handwritten signature in cursive script, appearing to read "Carol O. Loveless", written over a horizontal line.

Carol O. Loveless